

The Examiner, citing PCT Rule 13.1 and 13.2, contends that Groups I-IV do not relate to a single general inventive concept because they lack the same or corresponding special technical features. Applicants wish to point out that MPEP 1893.03 (d) states that:

A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature.

Groups I-IV do share a common technical feature, the enzyme that reacts upon free cholesterol as a substrate. Accordingly, the criteria for unity of invention are satisfied.

Applicants traverse the Restriction Requirement on the additional grounds that the Office has not applied the same standard of unity of invention as the International Preliminary Examination Authority. The Authority did not take the position that unity of invention was lacking in the International application and examined all claims together (see the International Preliminary Examination Report appended herewith). Applicants note that PCT Article 27(1) states that no national law shall require compliance with requirements relating to the form and contents of the International application different from or additional to those which are provided for in the Patent Cooperation Treaty and the Regulations.

Moreover, the MPEP in §803 states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. In fact, the International Searching Authority has searched all of the claims together.

For the reasons set forth above, Applicants contend that the Restriction Requirement is improper and should be withdrawn.

Applicants respectfully submit that the above-identified application is now in
condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Norman F. Oblon
Attorney of Record
Registration No.: 24,618

Vincent K. Shier, Ph.D.
Registration No.: 50,552



22850

PHONE: (703) 413-3000
FAX: (703) 413-2220
NFO:VKS
E:\217323US0PCT-RR RESP.wpd